

## Statement of Proposed Changes to the 2010-2011 LIHTC Compliance Monitoring Policies and Procedures Manual

- Revise the Rental Application to include racial data to be collected for statistical purposes; to update the exceptions to a full-time student household to include foster care; and to define a similar program to the Workforce Investment Act;
- Provide a sample of the “Student Status Verification form”;
- Include “foster care” as one of the exceptions to the full time student household exceptions on the revised Tenant Income Certification (TIC);
- #16 of the Owner’s Certificate of Continuing Program Compliance now reads as follows:  
COMPLETE ONLY IF YOUR PROJECT RECEIVED ARKANSAS STATE TAX CREDITS: indicate the amount of state tax credits claimed in the most recent year for which the Limited Partnership has filed a federal tax return: YEAR\_\_\_\_\_ amount  
\$\_\_\_\_\_.
- ADFA requires that each development owner or manager maintains an “Administrative File/Binder for ADFA LIHTC recordkeeping procedures;
- In order to monitor the balances in the operating reserve account and the replacement reserve account, ADFA requires each project owner to attach current year-end bank statements to the annual Owner’s Certificate of Continuing Program Compliance throughout the compliance period;
- In order to monitor debt coverage ratios (DCR), ADFA requires owners to include current financial statements along with the Owner’s Certificate of Continuing Program Compliance throughout the compliance period;
- For certain projects and depending on the project’s rent floor election effective date, rents may be higher than the rent limits derived from the MTSP income limits. LIHTC project owners can elect to have their rent floor effective on the date of their carryover allocation or the date the project is placed in service. Owners must notify ADFA if choosing the rent floor election;

- FEES: Any charges to low-income tenants for services that are not optional generally must be included in gross rent. A service is optional when the service is not a condition of occupancy and there is a reasonable alternative. No separate fees can be charged for tenant facilities (swimming pools, parking, recreational facilities) if the costs are included in eligible basis. Fees cannot be charged for services considered as amenities or for which the owner received points.

Refundable fees associated with renting an LIHTC unit are not included in the rent computation. For example, security deposits and fees paid if a lease is prematurely terminated are one-time payments that are not considered in the rent computation. Required costs or fees, which are not refundable, are included in the rent computation. Examples include fees for month-to-month tenancy and renter's insurance;

- Application fees may be charged to cover the actual cost of checking a prospective tenant's income, credit history, and landlord references. Owners or managers must provide supporting documentation to justify the amount of application fees;
- The Workforce Investment Act (WIA) replaced the Job Training Partnership Act (JTPA). A "similar" program must get federal, state, or local government funding and have a mission similar to the one for the JTPA/WIA programs;
- ADFA will charge a fee of \$500.00 per project to process a change in management;
- ADFA is developing a web-based housing locator. By submitting an application for tax credits, all applicants agree to participate in, provide information for, and cooperate with ADFA in the creation and maintenance of such web-based locator;
- IMPLEMENTATION OF THE TAX CREDIT ASSISTANCE PROGRAM (TCAP)  
On February 17, 2009, the president of the United States signed the American Recovery and Reinvestment Act of 2009 (Public Law 111-5). The purpose of the Recovery Act was to jumpstart the nation's ailing economy, with a primary focus on creating and saving jobs in the near term and investing in infrastructure that will provide long-term economic benefits. Title XII of the Recovery Act appropriated funds for capital investments in Low-Income Housing Tax Credit (LIHTC) projects. All TCAP projects must have LIHTCs. The project must maintain eligible basis and comply with all other

requirements of Section 42 throughout the compliance period. A violation under Section 42 also constitutes a violation under TCAP. ADFA staff will monitor TCAP projects in the same manner as LIHTC projects. Specific attention will be paid to the individual TCAP Agreements for compliance with all the terms thereof.

Owner's breach of any provision of the TCAP Agreement may constitute an event that ADFA may, in its discretion, deem a recapture event. If so, ADFA will give owner notice and an opportunity to return to compliance. ADFA shall have full recourse against applicable parties for the full amount of recapture.

- **IMPLEMENTATION OF SECTION 1602: Grants to states for Low-Income Housing Projects in Lieu of Low Income Housing Tax Credits**

The 1602 Program is sometimes called the Exchange Program; however, this does not mean that a building that has been allocated LIHTCs must exchange these tax credits in order to receive Section 1602 funds. The "Exchange program" refers to the exchange that takes place at the state level, where ADFA exchanges all or part of the State Housing Credit Ceiling (to the extent permitted under Section 1602) for Section 1602 funds. The purpose of the 1602 program is to provide funds to develop low-income housing where there is a funding gap.

Just as with LIHTC projects, buildings receiving Section 1602 funds are subject to a 15-year compliance period. ADFA will monitor the projects for compliance with the terms and conditions set forth in the extended use agreement.

Section 1602 recapture event occurs any time within the 15-year compliance period (as defined in Section 42(i)(1) of the Internal Revenue Code when the applicable fraction of a building under Section 42(c)(1)(B) falls below the percentage of Section 1602 funds that comprise the eligible basis of the building (the Section 1602 percentage), or below the minimum set-aside elected for the building under Section 42(g)(1), whichever is greater. Individual extended use agreements will specify the 1602 percentage.

When a recapture event occurs, the full amount of the Section 1602 subaward is owed minus 6.67 percent ( $1/15^{\text{th}}$ ) for each full year of the building's 15-year compliance where a Section 1602 recapture event has not occurred.

- The collection of monitoring fees for the CDBG Disaster Program, the Assisted Living Program, and Housing Trust Fund will be consistent with all other programs.